

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/INSURANCE DIVISION  
BILL)

**A BILL FOR**

1 An Act relating to various matters under the purview of the  
2 insurance division of the department of commerce, providing  
3 penalties, and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DRAFT

1 Section 1. Section 135.22A, subsection 2, paragraph g, Code  
2 2011, is amended by striking the paragraph.

3 Sec. 2. Section 502.412, subsection 3, Code 2011, is amended  
4 to read as follows:

5 3. *Disciplinary penalties — registrants.* If the  
6 administrator finds that the order is in the public interest  
7 and subsection 4, paragraphs “a” through “f”, “h”, “i”, “j”,  
8 “l”, or “m”, authorizes the action, an order under this chapter  
9 may censure, impose a bar, or impose a civil penalty in an  
10 amount not to exceed a maximum of ~~five~~ ten thousand dollars  
11 for a single violation or ~~five hundred thousand~~ one million  
12 dollars for more than one violation, or in an amount as agreed  
13 to by the parties, on a registrant, and, if the registrant is  
14 a broker-dealer or investment adviser, a partner, officer,  
15 director, or person having a similar status or performing  
16 similar functions, or a person directly or indirectly in  
17 control, of the broker-dealer or investment adviser.

18 Sec. 3. Section 502.604, subsection 4, Code Supplement  
19 2011, is amended to read as follows:

20 4. *Civil penalty — restitution — corrective action.* In a  
21 final order under subsection 3, the administrator may impose a  
22 civil penalty up to an amount not to exceed a maximum of ~~five~~  
23 ten thousand dollars for a single violation or ~~five hundred~~  
24 ~~thousand~~ one million dollars for more than one violation, or  
25 in an amount as agreed to by the parties, order restitution,  
26 or take other corrective action as the administrator deems  
27 necessary and appropriate to accomplish compliance with  
28 the laws of the state relating to all securities business  
29 transacted in the state.

30 Sec. 4. Section 502.604, Code Supplement 2011, is amended by  
31 adding the following new subsection:

32 NEW SUBSECTION. 5A. *Failure to obey cease and desist*  
33 *order.* A person who fails to obey a valid cease and desist  
34 order issued by the administrator under this section may, after  
35 notice and opportunity for a hearing, be subject to a civil

1 penalty in an amount of not less than one thousand dollars and  
2 not to exceed ten thousand dollars for violating the order.  
3 Each day the failure to obey the cease and desist order occurs  
4 or continues constitutes a separate violation of the order.  
5 The penalties provided in this subsection are in addition to,  
6 and not exclusive of, other remedies that may be available.

7 Sec. 5. Section 505.8, subsection 10, Code Supplement 2011,  
8 is amended to read as follows:

9 10. The commissioner may, after a hearing conducted  
10 pursuant to chapter 17A, assess fines or penalties~~;~~ assess  
11 costs of an examination, investigation, or proceeding~~;~~  
12 order restitution~~;~~ or take other corrective action as the  
13 commissioner deems necessary and appropriate to accomplish  
14 compliance with the laws of the state relating to all insurance  
15 business transacted in the state.

16 Sec. 6. NEW SECTION. 506.14 Voluntary dissolution of  
17 domestic mutual insurance companies.

18 1. Any plan for voluntary dissolution of a domestic  
19 mutual insurance company licensed to transact the business  
20 of insurance under chapter 508, 515, 518, or 518A shall be  
21 presented for approval by the commissioner not less than ninety  
22 days in advance of notice of the plan to policyholders.

23 2. The commissioner shall approve the plan if the  
24 commissioner finds that the plan complies with all applicable  
25 provisions of law and is fair and equitable to the domestic  
26 mutual insurance company and its policyholders.

27 Sec. 7. Section 507.10, subsection 4, paragraph a, Code  
28 2011, is amended to read as follows:

29 a. All orders entered pursuant to subsection 3, paragraph  
30 "a", shall be accompanied by findings and conclusions resulting  
31 from the commissioner's consideration and review of the  
32 examination report, relevant examiner work papers, and any  
33 written submissions or rebuttals. Any such order is a final  
34 administrative decision and may be appealed pursuant to chapter  
35 17A, and shall be served upon the company by certified mail,

1 together with a copy of the adopted examination report. Within  
2 ~~thirty days of the issuance of the adopted report, the company~~  
3 ~~shall file affidavits executed by each of its directors stating~~  
4 ~~under oath that they have received a copy of the adopted report~~  
5 ~~and related orders. The board of directors of the company~~  
6 shall timely review the adopted report. The minutes of the  
7 meeting of the board at which the adopted report is considered  
8 shall reflect that each member of the board has reviewed the  
9 adopted report.

10 Sec. 8. Section 507.14, subsection 4, Code 2011, is amended  
11 to read as follows:

12 4. Confidential documents, materials, information,  
13 administrative or judicial orders, or other actions may be  
14 disclosed to a regulatory official of any state, federal  
15 agency, or foreign country provided that the recipients are  
16 required, under their law, to maintain their confidentiality.  
17 Confidential records may be disclosed to the national  
18 association of insurance commissioners, the international  
19 association of insurance supervisors, and the bank for  
20 international settlements, provided that the association  
21 certifies associations and the bank certify by written  
22 statement that the confidentiality of the records will be  
23 maintained.

24 Sec. 9. Section 507B.4, Code 2011, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 20. *Refund of premium for duplication of*  
27 *insurance.* Failing to refund premiums paid for a Medicare  
28 supplement policy after the effective date of a subsequently  
29 purchased Medicare advantage plan, where there have been no  
30 claims made on the Medicare supplement policy, and it can be  
31 established that the carrier of the Medicare supplement policy  
32 has no exposure to pay benefits if a claim is submitted to it  
33 during the time that both the Medicare supplement policy and  
34 the Medicare advantage plan are in effect. For the purposes  
35 of this subsection, "Medicare supplement policy" and "Medicare

1 *advantage plan*” mean the same as defined by the commissioner of  
2 insurance pursuant to rules adopted under chapter 17A.

3 Sec. 10. NEW SECTION. 507C.17A Rehabilitation or  
4 liquidation of a domestic insurer covered under the federal  
5 Dodd-Frank Wall Street Reform and Consumer Protection Act.

6 1. The provisions of this section apply in accordance  
7 with Tit. II of the federal Dodd-Frank Wall Street Reform and  
8 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301  
9 et seq., with respect to a domestic insurer that is a covered  
10 financial company, as that term is defined under 12 U.S.C. §  
11 5381.

12 2. The commissioner may petition the district court for an  
13 order of rehabilitation or liquidation of a domestic insurer  
14 pursuant to this section on any of the following grounds:

15 a. Upon a determination and notification given by the  
16 secretary of the treasury of the United States, in consultation  
17 with the president of the United States, that the insurer is  
18 a covered financial company satisfying the requirements of  
19 12 U.S.C. § 5383(b), and the board of directors, or a body  
20 performing similar functions of a board of directors, of the  
21 insurer acquiesces or consents to the appointment of a receiver  
22 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent  
23 to be considered as consent to an order of rehabilitation or  
24 liquidation.

25 b. Upon an order of the United States district court for  
26 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)  
27 granting the petition of the secretary of the treasury of  
28 the United States concerning the insurer under 12 U.S.C. §  
29 5382(a)(1)(A)(i).

30 c. A petition by the secretary of the treasury of the United  
31 States concerning the insurer is granted by operation of law  
32 under 12 U.S.C. § 5382(a)(1)(A)(v).

33 3. Notwithstanding any other provision of law to the  
34 contrary, after notice to the insurer, a district court  
35 may grant an order of rehabilitation or liquidation within

1 twenty-four hours after the filing of such a petition pursuant  
2 to this section.

3 4. If the district court does not make a determination on a  
4 petition for an order of rehabilitation or liquidation filed by  
5 the commissioner pursuant to this section within twenty-four  
6 hours after the filing of the petition, the order shall be  
7 deemed granted by operation of law upon the expiration of the  
8 twenty-four-hour period.

9 a. At the time that an order is deemed granted under this  
10 subsection, the provisions of this chapter shall be deemed  
11 to be in effect, and the commissioner shall be deemed to be  
12 affirmed as receiver and to have all of the applicable powers  
13 provided by this chapter, regardless of whether an order has  
14 been entered by the district court.

15 b. If an order is deemed granted by operation of law under  
16 this subsection, the district court shall expeditiously enter  
17 an order of rehabilitation or liquidation that does all of the  
18 following:

19 (1) Is effective as of the date that the order is deemed  
20 granted by operation of law.

21 (2) Conforms to the provisions for rehabilitation or  
22 liquidation of an insurer contained in this chapter, as  
23 applicable.

24 5. An order of rehabilitation or liquidation made pursuant  
25 to this section shall not be subject to a stay or injunction  
26 pending appeal.

27 6. Nothing in this section shall be construed to supersede  
28 or impair any other power or authority of the commissioner or  
29 the district court under this chapter.

30 Sec. 11. Section 507E.5, subsection 2, Code 2011, is amended  
31 to read as follows:

32 2. The commissioner may share documents, materials, or  
33 other information, including confidential and privileged  
34 documents, materials, or other information, with other  
35 state, federal, and international regulatory agencies, with

1 the national association of insurance commissioners and its  
2 affiliates or subsidiaries, and with local, state, federal, and  
3 international law enforcement authorities, provided that the  
4 recipient agrees to maintain the confidential and privileged  
5 status of the document, material, or other information,  
6 pursuant to Iowa law.

7 Sec. 12. Section 511.8, subsection 14, Code Supplement  
8 2011, is amended to read as follows:

9 14. *Urban real estate and personal property.*

10 a. Personal or real property or both located within the  
11 United States or the Dominion of Canada, other than real  
12 property used or to be used primarily for agricultural,  
13 horticultural, ranching or mining purposes, which produces  
14 income or which by suitable improvement will produce income.  
15 However, personal property acquired under this subsection shall  
16 be acquired for the purpose of entering into a contract for  
17 the sale or for a use under which the contractual payments  
18 may reasonably be expected to result in the recovery of the  
19 investment and an investment return within the anticipated  
20 useful life of the property. Legal title to the real property  
21 may be acquired subject to a contract of sale.

22 b. "Real property" as used in this subsection includes a all  
23 of the following:

24 (1) A leasehold of real estate,~~an.~~

25 (2) An undivided interest in a leasehold of real estate,~~and~~  
26 ~~an.~~

27 (3) An undivided interest in the fee title of real estate.

28 (4) A controlling membership, partnership, shareholder, or  
29 trust interest in any entity created solely for the purpose  
30 of owning and operating any of the interests described in  
31 subparagraph (1), (2), or (3), if the entity is expressly  
32 limited to that purpose within its organizational documents.

33 c. Investments under this subsection are not eligible in  
34 excess of ten percent of the legal reserve.

35 Sec. 13. Section 511.8, subsection 19, Code Supplement

1 2011, is amended to read as follows:

2 19. *Other foreign government or corporate obligations.*

3 a. Bonds or other evidences of indebtedness, not to  
4 include currency, issued, assumed, or guaranteed by a foreign  
5 government other than Canada, or by a corporation incorporated  
6 under the laws of a foreign government other than Canada. Such  
7 governmental obligations must be valid, legally authorized  
8 and issued, and on the date of acquisition have predominantly  
9 investment qualities and characteristics as provided by  
10 rule. Such corporate obligations must meet the qualifications  
11 established in subsection 5 for bonds and other evidences of  
12 indebtedness issued, assumed, or guaranteed by a corporation  
13 incorporated under the laws of the United States or Canada.  
14 Foreign investments authorized by this subsection are not  
15 eligible in excess of ~~twenty~~ twenty-five percent of the  
16 legal reserve of the life insurance company or association.  
17 Investments in obligations of a foreign government, other  
18 than Canada ~~and~~, the United Kingdom, and foreign governments  
19 rated AAA by Standard and Poor's division of McGraw-Hill  
20 companies, inc., or Aaa by Moody's investors services, inc.,  
21 are not eligible in excess of two percent of the legal reserve  
22 in the securities of foreign governments of any one foreign  
23 nation. Investments in obligations of the United Kingdom are  
24 not eligible in excess of four percent of the legal reserve.  
25 Investments in obligations of foreign governments rated either  
26 AAA by Standard and Poor's division of McGraw-Hill companies,  
27 inc., or Aaa by Moody's investors services, inc., are not  
28 eligible in excess of five percent of the legal reserve.  
29 Investments in a corporation incorporated under the laws of a  
30 foreign government other than Canada are not eligible in excess  
31 of two percent of the legal reserve in the securities of any  
32 one foreign corporation.

33 b. Eligible investments in foreign obligations under this  
34 subsection are limited to the types of obligations specifically  
35 referred to in this subsection. This subsection in no way



1 limits or restricts investments in Canadian obligations and  
2 securities specifically authorized in other subsections of this  
3 section.

4 c. This subsection shall not authorize investment in  
5 evidences of indebtedness issued, assumed, or guaranteed by a  
6 foreign government which engages in a consistent pattern of  
7 gross violations of human rights.

8 Sec. 14. Section 511.8, subsection 23, Code Supplement  
9 2011, is amended by adding the following new paragraph:

10 NEW PARAGRAPH. *g.* For securities loaned pursuant to this  
11 subsection that are included in the legal reserve of the life  
12 insurance company or association, the collateral received for  
13 the loaned securities shall not be eligible for inclusion in  
14 the legal reserve.

15 Sec. 15. Section 511.40, Code 2011, is amended by adding the  
16 following new subsection:

17 NEW SUBSECTION. 5. *a.* The gross amount of premiums  
18 received by a life insurance company or association for an  
19 employer-owned life insurance contract which has not been  
20 allocated to another state shall be allocated to this state  
21 for purposes of section 432.1, subsection 1, if either of the  
22 following is applicable:

23 (1) The contract is issued or delivered in this state.

24 (2) The company or association is domiciled in this state.

25 *b.* To the extent that premiums are allocated to this state  
26 pursuant to paragraph "a", the provisions of section 505.14 are  
27 not applicable to those premiums.

28 *c.* As used in this subsection, "*employer-owned life*  
29 *insurance contract*" means a policy which provides coverage on  
30 a life for which the employer has an insurable interest under  
31 this section or a similar provision of the laws of another  
32 state and the policy is owned by either the employer or a trust  
33 established by the employer for the benefit of the employer or  
34 the employer's active or retired employees.

35 Sec. 16. Section 514.4, Code 2011, is amended to read as

1 follows:

2     **514.4 Directors.**

3     1. At least two-thirds of the directors of a hospital  
4 service corporation, medical service corporation, dental  
5 service corporation, or pharmaceutical or optometric service  
6 corporation subject to this chapter shall be at all times  
7 subscribers and not more than one-third of the directors  
8 shall be providers as provided in this section. The board of  
9 directors of each corporation shall consist of at least nine  
10 members.

11    2. A subscriber director is a director of the board of  
12 a corporation who is a subscriber and who is not a provider  
13 of health care pursuant to section 514B.1, subsection 7, a  
14 person who has material financial or fiduciary interest in the  
15 delivery of health care services or a related industry, an  
16 employee of an institution which provides health care services,  
17 or a spouse or a member of the immediate family of such a  
18 person. However, a subscriber director of a dental service  
19 corporation may be an employee, officer, director, or trustee  
20 of a hospital or other entity that does not have a provider  
21 contract with the dental service corporation. A subscriber  
22 director of a hospital or medical service corporation shall be  
23 a subscriber of the services of that corporation.

24    3. A provider director of a corporation subject to this  
25 chapter shall be at all times a person who has a material  
26 financial interest in or is a fiduciary to or an employee  
27 of or is a spouse or member of the immediate family of a  
28 provider having a contract with such corporation to render to  
29 its subscribers the services of such corporation or who is a  
30 hospital trustee.

31    4. A director may serve on a board of only one corporation  
32 at a time subject to this chapter.

33    5. The commissioner of insurance shall adopt rules pursuant  
34 to chapter 17A to implement the process of the election of  
35 subscriber directors of the board of directors of a corporation

1 to ensure the representation of a broad spectrum of subscriber  
2 interest on each board and establish criteria for the selection  
3 of nominees. The rules shall provide for an independent  
4 subscriber nominating committee to serve until the composition  
5 of the board of directors meets the percentage requirements  
6 of this section. Once the composition requirements of this  
7 section are met, the nominations for subscriber directors  
8 shall be made by the subscriber directors of the board under  
9 procedures the board establishes which shall also permit  
10 nomination by a petition of at least fifty subscribers. The  
11 board shall also establish procedures to permit nomination of  
12 provider directors by petition of at least fifty participating  
13 providers. A member of the board of directors of a corporation  
14 subject to this chapter shall not serve on the independent  
15 subscriber nominating committee. The nominating committee  
16 shall consist of subscribers as defined in this section. The  
17 rules of the commissioner of insurance shall also permit  
18 nomination of subscriber directors by a petition of at least  
19 fifty subscribers, and nomination of provider directors  
20 by a petition of at least fifty participating providers.  
21 These petitions shall be considered only by the independent  
22 nominating committee during the duration of the committee.  
23 Following the discontinuance of the committee, the petition  
24 process shall be continued and the board of directors of the  
25 corporation shall consider the petitions. The independent  
26 subscriber nominating committee is not subject to chapter 17A.  
27 The nominating committee shall not receive per diem or expenses  
28 for the performance of their duties.

29 6. Population factors, representation of different  
30 geographic regions, and the demography of the service area of  
31 the corporation subject to this chapter shall be considered  
32 when making nominations for the board of directors of a  
33 corporation subject to this chapter.

34 7. A corporation serving states in addition to Iowa shall be  
35 required to implement this section only for directors who are

1 residents of Iowa and elected as board members from Iowa.

2 Sec. 17. Section 515.69, subsection 1, Code 2011, is amended  
3 to read as follows:

4 1. A stock insurance company organized under or by the  
5 laws of any other state or foreign government for the purpose  
6 specified in this chapter, shall not, directly or indirectly,  
7 take risks or transact business of insurance in this state  
8 unless the company ~~has two and one-half million dollars of~~  
9 ~~actual paid-up capital, and a surplus in cash or invested in~~  
10 ~~securities authorized by law of not less than two and one-half~~  
11 ~~million dollars,~~ possesses the actual amount of capital and  
12 surplus required of any company organized pursuant to this  
13 chapter, or if the company is a mutual insurance company, the  
14 actual amount of surplus required of any mutual insurance  
15 company organized pursuant to this chapter, exclusive of assets  
16 deposited in a state, territory, district, or country for the  
17 special benefit or security of those insured in that state,  
18 territory, district, or country.

19 Sec. 18. Section 515.120, Code 2011, is amended to read as  
20 follows:

21 **515.120 Business with nonadmitted insurers.**

22 1. This chapter does not prevent a licensed resident or  
23 nonresident producer of this state, qualified to write excess  
24 and surplus lines insurance, from procuring insurance in  
25 certain nonadmitted insurers if such insurance is restricted  
26 to the type and kind of insurance authorized by this chapter,  
27 excluding insurance authorized under section 515.48,  
28 subsection 5, paragraph "a", and the producer makes oath to  
29 the commissioner of insurance in the form prescribed by the  
30 commissioner that the producer has made diligent effort to  
31 place the insurance in authorized insurers and has either  
32 exhausted the capacity of all authorized insurers or has been  
33 unable to obtain the desired insurance in insurers licensed to  
34 transact business in this state.

35 2. The procuring of a contract of insurance in a nonadmitted

1 insurer makes the insurer liable for, and the producer shall  
2 pay, the taxes on the premiums as if the insurer were duly  
3 authorized to transact business in the state.

4 3. A sworn report of all business transacted by producers  
5 of this state in nonadmitted insurers shall be made to the  
6 commissioner of insurance on or before March 1 of each year  
7 for the preceding calendar year, on the form required by the  
8 commissioner of insurance. The report shall be accompanied by  
9 a remittance to cover the taxes on the premiums. A producer  
10 who makes the oath, pays the taxes on the premiums, and  
11 files the report has not written such contracts of insurance  
12 unlawfully, and is not personally liable for the contracts.

13 4. Notwithstanding subsection 1, for purposes of this  
14 section and sections 515.121 and 515.122, excess and surplus  
15 lines insurance includes disability insurance that is in excess  
16 of policy limits available in admitted insurers.

17 Sec. 19. Section 515.136, Code 2011, is amended to read as  
18 follows:

19 **515.136 Value of building — liability.**

20 ~~The insurance company or association issuing such policy may~~  
21 ~~show the actual value of said property at date of policy, and~~  
22 ~~any depreciation in the value thereof before the loss occurred;~~  
23 ~~but the said~~ An insurance company or association shall be  
24 liable for the actual value of the property insured at the date  
25 of the loss, unless such value exceeds the amount stated in the  
26 policy.

27 Sec. 20. Section 515A.7, subsection 1, paragraph b,  
28 subparagraph (5), Code 2011, is amended to read as follows:

29 (5) An insurer may adopt a ~~scheduled or~~ schedule rating plan  
30 providing for credits or debits in an amount not exceeding the  
31 maximum modification allowed as set forth by the commissioner  
32 by rule. This amount shall be in addition to the permitted  
33 deviations set forth in subparagraphs (1) through (4).

34 Sec. 21. Section 518.14, subsection 4, paragraph f,  
35 unnumbered paragraph 1, Code 2011, is amended to read as

1 follows:

2 Common stocks, common stock equivalents, mutual fund shares,  
3 securities convertible into common stocks or common stock  
4 equivalents, or preferred stocks issued or guaranteed by a  
5 corporation incorporated under the laws of the United States  
6 or a state, or the laws of Canada or a province of Canada,  
7 or by limited partnerships publicly traded on a nationally  
8 established stock exchange in the United States. Aggregate  
9 investments in nondividend paying stocks shall not exceed five  
10 percent of surplus.

11 Sec. 22. Section 518A.12, subsection 4, paragraph f,  
12 unnumbered paragraph 1, Code 2011, is amended to read as  
13 follows:

14 Common stocks, common stock equivalents, mutual fund shares,  
15 securities convertible into common stocks or common stock  
16 equivalents, or preferred stocks issued or guaranteed by a  
17 corporation incorporated under the laws of the United States  
18 or a state, or the laws of Canada or a province of Canada,  
19 or by limited partnerships publicly traded on a nationally  
20 established stock exchange in the United States. Aggregate  
21 investments in nondividend paying stocks shall not exceed five  
22 percent of surplus.

23 Sec. 23. Section 521E.1, subsection 4, unnumbered paragraph  
24 1, Code 2011, is amended to read as follows:

25 "*Domestic insurer*" means an insurance company domiciled in  
26 this state and licensed to transact the business of insurance  
27 under chapter 508, 512B, 515, or 520, except that it shall not  
28 include any of the following:

29 Sec. 24. Section 521E.1, subsection 4, paragraph b, Code  
30 2011, is amended by striking the paragraph.

31 Sec. 25. Section 521E.1, subsections 6 and 7, Code 2011, are  
32 amended to read as follows:

33 6. "*Foreign insurer*" means an insurance company not  
34 domiciled in this state which is licensed to transact the  
35 business of insurance in this state under chapter 508, 512B,

1 515, or 520.

2 7. "*Life and health insurer*" means an insurance company  
3 licensed under chapter 508, a fraternal benefit society  
4 organized under chapter 512B, or a licensed property and  
5 casualty insurer writing only accident and health insurance  
6 under chapter 515.

7 Sec. 26. Section 521E.3, subsection 1, paragraph a,  
8 subparagraph (2), Code Supplement 2011, is amended to read as  
9 follows:

10 (2) For a life and health insurer, the insurer's  
11 total adjusted capital is greater than or equal to its  
12 company-action-level risk-based capital but less than the  
13 product of its authorized-control-level risk-based capital and  
14 ~~two and one-half~~ three, and has a negative trend.

15 Sec. 27. Section 522C.6, Code 2011, is amended by adding the  
16 following new subsection:

17 NEW SUBSECTION. 3. *a.* A licensed public adjuster who,  
18 after hearing, is found to have violated this chapter or any  
19 rule adopted or order issued pursuant to this chapter, may  
20 be ordered to cease and desist from engaging in the conduct  
21 resulting in the violation and may be assessed a civil penalty  
22 as provided in section 505.7A.

23 *b.* A person who, after hearing, is found to have violated  
24 this chapter by acting as a public adjuster without proper  
25 licensure may be ordered to cease and desist from engaging in  
26 the conduct resulting in the violation and may be assessed a  
27 civil penalty according to the provisions of chapter 507A.

28 *c.* If a person has engaged, is engaging, or is about to  
29 engage in any act or practice constituting a violation of  
30 this chapter or any rule adopted or order issued pursuant to  
31 this chapter, the commissioner may issue a summary order that  
32 includes a brief statement of findings of fact, conclusions of  
33 law, and policy reasons for the order, and that directs the  
34 person to cease and desist from engaging in the act or practice  
35 constituting the violation and that may assess a civil penalty

1 or take other affirmative action as in the judgment of the  
2 commissioner is necessary to assure that the person complies  
3 with the requirements of this chapter as provided in chapter  
4 507A.

5     *d.* If a person does not comply with an order issued pursuant  
6 to this subsection, the commissioner may petition a court of  
7 competent jurisdiction to enforce the order. The court shall  
8 not require the commissioner to post a bond in an action or  
9 proceeding under this subsection. If the court finds, after  
10 notice and opportunity for hearing, that the person is not in  
11 compliance with an order, the court may adjudge the person to  
12 be in civil contempt of the order. The court may impose a civil  
13 penalty against the person for contempt in an amount not less  
14 than three thousand dollars but not greater than ten thousand  
15 dollars for each violation and may grant any other relief that  
16 the court determines is just and proper in the circumstances.

17     Sec. 28. Section 598.20A, Code 2011, is amended to read as  
18 follows:

19     **598.20A Beneficiary revocation — life insurance.**

20     1. Except as preempted by federal law, if a decree of  
21 dissolution, annulment, or separate maintenance is issued after  
22 ~~an insured~~ the policy owner of an insurance contract insuring  
23 the policy owner's own life has designated the ~~insured's~~ policy  
24 owner's spouse or one or more relatives of the ~~insured's~~ policy  
25 owner's spouse as a beneficiary under a life insurance policy  
26 in effect on the date of the decree, a provision in the life  
27 insurance policy making such a designation is voided by the  
28 issuance of the decree unless any of the following apply:

29     *a.* The decree designates the ~~insured's~~ policy owner's former  
30 spouse or one or more relatives of the ~~insured's~~ policy owner's  
31 spouse as beneficiary.

32     *b.* After issuance of the decree, the ~~insured~~ policy owner  
33 executes a designation of beneficiary form provided by the  
34 insurance company naming the ~~insured's~~ policy owner's former  
35 spouse or one or more relatives of the ~~insured's~~ policy owner's



1 former spouse as beneficiary.

2     c. The ~~insured~~ policy owner and the ~~insured's~~ policy owner's  
3 former spouse remarry.

4     2. If a beneficiary designation is not effective pursuant to  
5 subsection 1, the benefits or proceeds of the life insurance  
6 policy are payable to an alternate beneficiary, or if there is  
7 no alternate beneficiary, to the estate of the ~~insured~~ policy  
8 owner.

9     3. An insurer who pays benefits or proceeds of a life  
10 insurance policy to a beneficiary under a designation that is  
11 void pursuant to subsection 1 is not liable for payment to an  
12 alternative beneficiary as provided under subsection 2 unless  
13 both of the following apply:

14     a. At least ten days prior to payment of the benefits  
15 or proceeds of the life insurance policy to the designated  
16 beneficiary, the insurer receives written notice at the home  
17 office of the insurer that the designation of the beneficiary  
18 is not effective pursuant to subsection 1.

19     b. The insurer has failed to interplead the benefits or  
20 proceeds of the life insurance policy in a court of competent  
21 jurisdiction in accordance with the rules of civil procedure.

22     4. This section does not limit the right of a beneficiary  
23 to seek recovery from any person or entity that erroneously  
24 receives or collects the benefits or proceeds from a life  
25 insurance policy.

26     5. This section does not affect the right of an ~~insured's~~  
27 ~~former~~ a policy owner's spouse to assert an ownership interest  
28 in a life insurance policy insuring the life of the policy  
29 owner that is not disclosed to the ~~insured's~~ policy owner's  
30 spouse prior to the decree of dissolution, annulment, or  
31 separate maintenance and that is not addressed by the decree.

32     6. For purposes of this section, "*relative of the insured's*  
33 *policy owner's spouse*" means a person who is related to the  
34 ~~insured's~~ policy owner's former spouse by blood, adoption,  
35 or affinity, and who, subsequent to a decree of dissolution,

1 annulment, or separate maintenance, ceases to be related to the  
2 ~~insured~~ policy owner by blood, adoption, or affinity.

3       Sec. 29. EFFECTIVE UPON ENACTMENT. The following  
4 provision or provisions of this Act, being deemed of immediate  
5 importance, take effect upon enactment:

6       1. The section of this Act enacting section 507C.17A.

7                                       EXPLANATION

8       This bill relates to various matters under the purview of the  
9 insurance division of the department of commerce.

10       DEPARTMENT OF PUBLIC HEALTH. Code section 135.22A(2)(g)  
11 is stricken to remove the commissioner of insurance from the  
12 membership of the advisory council on brain injuries.

13       UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section  
14 502.412(3) is amended to increase the amount of the  
15 disciplinary penalty for registrants that the administrator  
16 (commissioner of insurance or the commissioner's deputy) can  
17 impose for a violation of the Code chapter from a maximum of  
18 \$5,000 to \$10,000 for a single violation, and from \$500,000 to  
19 \$1 million for more than one violation, or in such amount as  
20 agreed to by the parties.

21       Code section 502.604(4) is amended to increase the amount  
22 of a civil penalty the administrator can impose against a  
23 person for engaging in an act, practice, or course of business  
24 in violation of the Code chapter from a maximum of \$5,000 to  
25 \$10,000 for a single violation, and from \$500,000 to \$1 million  
26 for more than one violation, or in an amount agreed to by the  
27 parties.

28       New Code section 502.604(5A) provides that a person  
29 who fails to obey a valid cease and desist order issued by  
30 the administrator may be subject to a civil penalty in an  
31 amount of not less than \$1,000 and not more than \$10,000 for  
32 violating the order. Each day the failure to obey continues  
33 constitutes a separate violation. The penalties provided in  
34 this subsection are in addition to, and not exclusive of other  
35 remedies that may be available.

1 INSURANCE DIVISION. Code section 505.8(10) is amended to  
2 allow the commissioner to assess the costs of the examination  
3 of a regulated entity necessary to accomplish compliance with  
4 the insurance laws of this state.

5 DOMESTIC INSURANCE COMPANIES. New Code section 506.14  
6 provides that any plan for the voluntary dissolution of a  
7 domestic mutual insurance company licensed in this state shall  
8 be presented for approval by the commissioner not less than 90  
9 days prior to notice of the plan to the policyholders. The  
10 commissioner must approve the plan if it complies with all  
11 applicable laws and is fair and equitable to the company and to  
12 its policyholders.

13 EXAMINATION OF INSURANCE COMPANIES. Code section  
14 507.10(4)(a) is amended to allow the board of directors of  
15 an insurance company to signal that each member has reviewed  
16 an examination report with a notation in the board's meeting  
17 minutes instead of by filing affidavits indicating that each  
18 member has received a copy of the report.

19 Code section 507.14 is amended to allow the commissioner  
20 to release confidential documents and other materials to the  
21 international association of insurance supervisors and the bank  
22 for international settlements provided that those entities  
23 give written certification that the records will be kept  
24 confidential.

25 INSURANCE TRADE PRACTICES. New Code section 507B.4(20)  
26 makes it an unfair or deceptive act or practice in the business  
27 of insurance to fail to refund premiums paid for a Medicare  
28 supplement policy after the effective date of a subsequently  
29 purchased Medicare advantage plan if the insurer has no  
30 exposure to pay benefits under the Medicare supplement policy  
31 during the time that both the supplement policy and the  
32 advantage plan are in effect.

33 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION.  
34 New Code section 507C.17A contains provisions that apply in  
35 accordance with the federal Dodd-Frank Wall Street Reform and

1 Consumer Protection Act to a domestic insurer that is a covered  
2 financial company, as that term is defined in federal law.

3 The bill provides that the commissioner of insurance may  
4 file a petition in the state district court for an order of  
5 rehabilitation or liquidation of such a domestic insurer upon  
6 receiving notice from the secretary of the treasury of the  
7 United States that the insurer acquiesces or consents to the  
8 appointment of a receiver; upon an order of the United States  
9 district court for the District of Columbia as to that insurer;  
10 or when a petition of the secretary of the treasury of the  
11 United States concerning the insurer is granted by operation  
12 of law.

13 Notwithstanding any other provision of law to the contrary,  
14 the state district court, after notice to the insurer, may  
15 grant an order on such a petition within 24 hours after the  
16 filing of the petition. If the district court does not make a  
17 determination on the petition within 24 hours of its filing,  
18 the order is deemed granted by operation of law upon expiration  
19 of the 24-hour period.

20 At the time an order is deemed granted, the provisions of  
21 Code chapter 507C are deemed to be in effect, the commissioner  
22 is deemed to be affirmed as the receiver and to have all of  
23 the applicable powers provided by Code chapter 507C, and the  
24 state district court must expeditiously enter an order of  
25 rehabilitation or liquidation. An order of rehabilitation or  
26 liquidation made pursuant to the provisions of the bill is not  
27 subject to a stay or injunction pending appeal.

28 This provision is effective upon enactment.

29 INSURANCE FRAUD. Code section 507E.5(2) is amended to allow  
30 the commissioner to share documents with local as well as  
31 state, federal, and international law enforcement authorities  
32 if the recipient agrees to maintain the confidentiality of  
33 confidential and privileged documents that are shared.

34 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section  
35 511.8(14) is amended to provide that a life insurance company

1 can include in its legal reserve as real property a controlling  
2 membership, partnership, shareholder, or trust interest in any  
3 entity created solely for the purpose of owning and operating a  
4 leasehold of real estate, an undivided interest in a leasehold  
5 of real estate, or an undivided interest in the fee title of  
6 real estate. The entity must be expressly limited to that  
7 purpose by its organizational documents.

8 Code section 511.8(19) is amended to provide that a life  
9 insurance company can include in its legal reserve certain  
10 foreign investments not in excess of 25, instead of 20,  
11 percent of its legal reserve. Investments in obligations of a  
12 foreign government rated AAA by Standard and Poor's division  
13 of McGraw-Hill companies, inc., or Aaa by Moody's investors  
14 services, inc., are eligible for inclusion in the legal reserve  
15 up to 5, instead of 2, percent of the legal reserve.

16 Code section 511.8(23) is amended to provide that if  
17 securities held in a life insurance company's legal reserve are  
18 loaned, the collateral received for the loaned securities is  
19 not eligible for inclusion in the legal reserve.

20 New Code section 511.40(5) provides that the gross amount of  
21 premiums received by a life insurance company or association  
22 for an employer-owned life insurance contract shall be  
23 allocated to this state for purposes of calculating the state  
24 premium tax if the contract is issued or delivered in this  
25 state or the company or association is domiciled in this state.  
26 For purposes of the subsection, "employer-owned life insurance  
27 contract" means a policy which provides coverage on a life for  
28 which the employer has an insurable interest under this Code  
29 section or the laws of another state and the policy is owned by  
30 either the employer or a trust established by the employer for  
31 the benefit of the employer or the employer's active or retired  
32 employees.

33 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4  
34 is amended to provide that a person who is affiliated with a  
35 hospital or other entity that does not have a provider contract

1 with a dental service corporation can serve as a subscriber  
2 director of that corporation.

3 INSURANCE OTHER THAN LIFE. Code section 515.69(1) is  
4 amended to require that a foreign stock insurance company must  
5 possess the actual amount of capital and surplus required of  
6 any company organized pursuant to Code chapter 515, or if the  
7 insurer is a mutual company, the actual amount of surplus  
8 required of any mutual company organized pursuant to Code  
9 chapter 515. Currently, a foreign stock insurance company is  
10 required to have \$2.5 million of actual paid-up capital, and a  
11 surplus in cash or invested in securities authorized by law of  
12 not less than \$2.5 million.

13 Code section 515.120 is amended to provide that excess and  
14 surplus lines insurance that can be purchased from nonadmitted  
15 insurers includes disability insurance that is in excess of  
16 policy limits available in admitted insurers.

17 Code section 515.136 is amended to provide that an insurance  
18 company or association is liable for the actual value of the  
19 property insured at a date of a loss, unless that value exceeds  
20 the amount stated in the policy. Currently, the insurer  
21 issuing such a policy may show the actual value of the property  
22 at the date of issuance of the policy and any depreciation in  
23 the value of the property after a loss occurred but is still  
24 liable for the actual value of the property insured on the date  
25 of loss or the policy amount, whichever is less.

26 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section  
27 515A.7(1)(b)(5) is amended to remove a reference to a  
28 "scheduled rating plan", a term that is not defined in the Code  
29 chapter.

30 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section  
31 518.14(4)(f) is amended to allow county mutual insurance  
32 associations to invest in stocks that are issued or guaranteed  
33 by limited partnerships publicly traded on a nationally  
34 established stock exchange in the United States.

35 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section

1 518A.12(4)(f) is amended to allow state mutual insurance  
2 associations to invest in stocks that are issued or guaranteed  
3 by limited partnerships publicly traded on a nationally  
4 established stock exchange in the United States.

5 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section  
6 521E.1(4) is amended to provide that for purposes of the Code  
7 chapter, a fraternal benefit society organized under Code  
8 chapter 512B is a domestic insurer. Code section 521E.1(4)(b),  
9 which excepted a fraternal benefit society from inclusion as  
10 a domestic insurer, is stricken. Corresponding changes to  
11 include such a society are made in Code section 521E.1(6) and  
12 (7).

13 Code section 521E.3(1)(a)(2) is amended to provide that for  
14 a life and health insurer, a company-action-level event means  
15 the insurer's total adjusted capital is greater than or equal  
16 to its company-action-level risk-based capital but less than  
17 the product of its authorized-control-level risk-based capital  
18 and three, instead of two and one-half, and has a negative  
19 trend.

20 LICENSING OF PUBLIC ADJUSTERS. Code section 522C.6 is  
21 amended to add provisions allowing the commissioner of  
22 insurance to hold hearings, issue cease and desist orders,  
23 assess civil penalties, and petition for enforcement of those  
24 orders by the district court against persons who violate  
25 the provisions of Code chapter 522C. The district court is  
26 authorized to adjudge a violator in civil contempt of an order  
27 and to impose a civil penalty for contempt of not less than  
28 \$3,000 but not more than \$10,000 for each violation and grant  
29 any other relief the court determines is just and proper under  
30 the circumstances.

31 DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS. Code  
32 section 598.20A is amended to provide that it is the policy  
33 owner of an insurance contract insuring the policy owner's own  
34 life, not the insured, who designates the beneficiary of the  
35 policy and is authorized to make changes in that designation

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 after a decree of dissolution of marriage, annulment, or  
2 separate maintenance.

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